

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7171 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DIVISIONAL CONTROLLER

Versus

RAMILABEN KHODABHAI PATEL

Appearance:

MR HARDIK C RAWAL for Petitioner
MR HM PARIKH for Respondent No. 1 to 3
SERVED for Respondent No. 4 (Deleted)

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE H.R.SHELAT

Date of decision: 11/12/96

ORAL JUDGEMENT

The appellant seeks permission to delete respondent No.4 as party respondent, as no relief is claimed against the respondent No.4. For the remaining

respondents, learned Advocate Mr. H.M. Parikh appears.

2. Admit. Mr. Parikh waives service of process. At the joint request of learned advocates, we are hearing and finally disposing of the First Appeal.

3. On behalf of the appellant, as nothing could be urged about negligence, learned Advocate fairly stated that the only question which is required to be decided, is quantum. Learned advocate pointed out that the Tribunal has committed an error in considering the dependency benefit at Rs.2500/- per month on the basis of income of the deceased at Rs.2800/- per month. He further submitted that the monthly dependency should have been taken only at Rs.2250/- and the appellant would not have preferred the appeal if dependency was taken at Rs.2250/- per month. Mr. Parikh, learned advocate for the original claimants fairly stated that ends of justice would be met if dependency benefit is taken at Rs.2250/- per month. Hence, we conclude that dependency benefit of Rs.2250/- per month is just and proper.

Learned advocate for the original claimants submitted that looking to the age of the deceased, a multiplier of 12 should have been awarded. We are unable to agree with this submission and we find that the multiplier of 10 awarded by the Tribunal is just and proper. We are also not inclined to disturb the other amounts awarded by the Tribunal, i.e. Rs.20,000/- for expectation of life, Rs.5,000/- for funeral expenses and Rs.10,000/- for consortium to the widow.

Thus, the dependency benefit at the rate of Rs.2250/- per month would be Rs.27,000/- per annum. Awarding a multiplier of 10, the total dependency benefit would come to Rs.2,70,000/-. As we are not disturbing the other amounts awarded, over and above the dependency benefit, the claimants will be also entitled to get Rs.20,000/- for expectation of life, Rs.5,000/- for funeral expenses and Rs.10,000/- for consortium. Therefore, we hold that the claimants are entitled to get by way of compensation from the opponents jointly and severally, a sum of Rs.3,05,000/- (Rupees three lakhs five thousand only) in all, with proportionate cost and interest at the rate of 12% per annum from the date of application till realisation.

We are told that the amount is deposited before the Tribunal. The Tribunal shall pass necessary orders to disburse the amount taking into consideration the

interest of minors and the widow.

The appeal stands partly allowed accordingly.
The decree be modified accordingly, with no order as to
costs.

csm./